

Audit Manual

Chapter 1

Introduction



Sales and Use Tax Department
California State
Board of Equalization

This is an advisory publication providing direction to staff administering the Sales and Use Tax Law and Regulations. Although this material is revised periodically, the most current material may be contained in other resources including Operations Memoranda and Policy Memoranda.

Please contact any board office if there are concerns regarding any section of this publication.

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AUDIT MANUAL

INTRODUCTION

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MISSION AND PHILOSOPHY

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The mission of the State Board of Equalization is to serve the public through fair, effective, and efficient tax administration.

The State Board of Equalization is committed to a philosophy of service and accountability to the public, whose interest is best served through sound administration of the tax laws. We believe this can be most effectively accomplished through programs that enable and encourage people to voluntarily comply with the laws. The Board's audit program is one of many ways in which we provide assistance and information to the public while, at the same time, providing a fair and firm enforcement program that ensures that taxes are reported properly.

PURPOSE OF AUDIT MANUAL

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This manual is a guide in conducting sales and use tax audits. It incorporates procedures and techniques that have evolved over a period of years and that have proved to be sound and practical. All members of the audit staff should carefully study it in order for audits to be conducted and reports prepared in a uniform manner consistent with approved tax auditing practices.

The manual cannot be a substitute for experience, training in accounting and auditing, or good judgment and active supervision. The procedures outlined in the manual are not inflexible. *However, all sections of Chapter 2, Field Audit Reports, and the italicized portions of the other chapters are to be followed exactly. The audit supervisor must approve any deviation from these instructions.*

TAX AUDIT POLICIES

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Field auditing is of great importance in efficient administration of self-assessed taxes such as those provided by the California business tax laws. It assists in ensuring uniform enforcement and detects and aids in the timely correction of reporting errors. The audit program of the Sales and Use Tax Department has resulted in the correction of tax underpayments and overpayments of many millions of dollars. In addition, there are educational benefits to the taxpayer which cannot be readily measured in terms of dollars but which undoubtedly are responsible for a large portion of the self-declared tax that would not otherwise be paid. On November 17, 1954, the Board by resolution adopted the original version of the following statement of tax audit policies (A-E below). It should be noted that this resolution has accurately reflected the intent and direction of the Board from 1954 through the present.

A Purpose Of Tax Auditing

Because most of the taxes administered by the Board are self-assessed by the taxpayers, an audit program is essential to provide for the following objectives:

- To assure all citizens of the state that the tax is being enforced uniformly;
- To deter tax evasion and carelessness in self-assessments; and
- To promote accuracy in self-assessments through aid extended to taxpayers with respect to the interpretation of the law and rules and regulations adopted thereunder.

B. Relationship of Taxpayer and Tax Auditor

Consistent with the purpose of tax auditing as outlined above, there is no occasion for the auditor to harass taxpayers or to give the impression that the object of the audit is to find something wrong with their self-assessments. The taxpayer should be assured that the auditor's function is to determine whether the amount of tax has been reported correctly. The auditor should aid the taxpayer in gaining a correct understanding of the law and demonstrate that we are as willing to recommend a refund of an overpayment as we are to propose a deficiency determination. Care should be taken to inform taxpayers regarding their rights and privileges in connection with such determinations. The tax auditor should keep in mind constantly that it is our policy to administer the law fairly and uniformly, with minimum annoyance to taxpayers and interference in their business affairs, as well as at the lowest cost consistent with good tax administration.

C. Professional Status of Tax Auditors

Tax auditors are engaged in professional assignments. They are called upon to exercise their highest skill and best judgment throughout the performance of their official duties. All audits should be made in accordance with approved auditing and accounting principles. Sound professional judgment must be exercised in making tests that are representative in scope and character to ensure that the results are representative of the actual business operations during the audit period.

Tax auditors are expected to observe the rules of conduct of their profession and the Board of Equalization's guidelines set forth in the pamphlet, *Ethics: Guidelines for Professional Conduct*. Auditors are also expected to perform their duties with dignity and courtesy regardless of the industry being audited, the size of the business, the sophistication of the records, or any other consideration. The Board can maintain the public's confidence only to the extent that all of our official activities and contacts with the public reflect the highest ethical and moral standards. Auditors must perform their duties with integrity and propriety, and auditors must do all in their power to ensure that their words or actions cannot be interpreted otherwise.

D. Evaluation of an Auditor's Skills

In determining the skills of an auditor, the quantity and quality of the work will be evaluated in relation to these questions:

- Is the auditor accurate and efficient in the analysis of taxpayer's records to determine whether tax liability has been reported correctly?
- Does the auditor explain to the taxpayer in clear terms the amounts of overpayment or underpayment identified by audit and provide a complete set of audit work papers so that the taxpayer is afforded a good understanding of what constitutes correct tax reporting?
- Does the auditor use sound professional judgment and exercise alertness to determine the most appropriate type of audit for a specific assignment?

An auditor's skill is not measured by the additional understatements and overstatements disclosed in his/her audits. Under no circumstances will an auditor's performance be rated upon the basis of recovery, which is prohibited by law. Additionally, aged audits and other audit program-level performance measurements established by Board management to evaluate district offices are not designed nor should they be used for evaluating an individual auditor's performance. This does not mean that an auditor may waste time on assignments by using ineffective audit techniques and performing nonessential tasks and still receive a satisfactory rating. It does mean that if the auditor works diligently, uses the kind of verification methods best fitted to the particular assignment, and performs a professional job with a reasonable expenditure of time, the work performance will be satisfactory.

E. Implementation of Auditing Policy

The Tax Policy Manager, Chief of Field Operations, Collections and Third District Operations Manager, and District Administrators have the responsibility to effectively carry out the policy set forth in this statement. They will issue such instructions as it is deemed necessary to implement this policy.

STANDARDS OF COMPETENCY FOR AN EXPERIENCED AUDITOR

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A. Basic Knowledge and the Ability To Apply It To Practical Situations:

- Thorough knowledge of accounting principles and systems.
- Thorough knowledge of auditing procedures and techniques.
- A general knowledge of business law, practices and procedures.

B. Special Knowledge and the Ability To Apply It To Practical Situations:

- Knowledge of the California Revenue and Taxation Code as it pertains to sales and use tax.
- Thorough knowledge of the authorized rules and regulations of the Board of Equalization.
- Knowledge of established administrative policies.
- Knowledge of special techniques peculiar to tax auditing and sales and use tax administration.
- Effective use of tools, manuals, annotations, and directives.

C. Ability To Prepare Professional Audit Reports With Particular Reference To:

- Use of computers.
- Completeness of reports.
- Clear and concise, well-organized comments with headings and captions.
- A working paper technique which is readily understood by others.
- Use of auditing procedures consistent with acceptable standards.
- Accuracy in comments, facts, and calculations.
- Ability to make decisions commensurate with duties and responsibilities.
- Ability to clearly explain and support, verbally and in writing, audit procedures and findings. Such explanations must be readily understood by supervisors, reviewers, Appeals officers, taxpayers, accountants, and attorneys.

D. Judicious Use of Time By:

- Proper use of audit short-cut techniques.
- Good organization and planning of work.
- Recognition of the “Concept of Materiality” in making audit decisions.

E. General Work Habits:

- Good general and business-like appearance.
- Promptness in keeping appointments.
- Promptness in completing and submitting assignments.

F. Attitude:

- Enthusiasm in work.
- Willingness to learn.
- Open-minded approach to assignments.
- Ability to accept responsibility.
- Ability and willingness to accept direction.

G. Use of Initiative, Inquisitiveness, and Ingenuity:

- Ability to adapt working habits and audit practices to differing environments.
- Alertness to recognize situations involving possible tax liability even though not directly concerned with a specific assignment.
- Willingness and ability to do research work on complex audit problems.
- Willingness and ability to develop alternative approaches to particular problems.

H. Relationships With People:

- Ability to get along and work with fellow employees, supervisors, and staff from other districts and units.
- Ability to get along and work with taxpayers and their employees, accountants, and attorneys.
- Ability to instill confidence.
- Ability to maintain an atmosphere of dignity and professionalism consistent with the auditing profession.
- As a representative of the Board, the ability to discuss with the public such things as:
 - ◆ The structure, history, mission, philosophy, and functions of the Board.
 - ◆ The various tax programs, generally.
 - ◆ Taxpayer benefits from tax revenues.
 - ◆ Some background knowledge of legislative intent in enacting law changes, exclusions, and exemptions.

KNOWLEDGE OF THE LAW**0101.30**

Auditors must be familiar with the provisions and requirements of the laws they are assisting to administer, which are:

Division 2, Part 1, of the Revenue and Taxation Code, known as the Sales and Use Tax Law.

Division 2, Part 1.5, of the Revenue and Taxation Code, known as the Bradley-Burns Uniform Local Sales and Use Tax Law.

Division 2, Part 1.6, of the Revenue and Taxation Code, known as the Transactions and Use Tax Law.

Division 2, Part 1.7, of the Revenue and Taxation Code, known as the Additional Local Taxes Law.

REGULATIONS AND PUBLICATIONS OF THE BOARD**0101.35**

Regulations promulgated by the Board interpret the laws the Board administers and have the force and effect of law. The Board also publishes a number of publications designed to assist taxpayers with their tax questions. Publication 51 contains a complete list of Board publications available to the public, as well as the address for ordering publications for which there is a charge. Many Board publications are also available on the Internet at www.boe.ca.gov.

BUSINESS TAXES LAW GUIDE**0101.45**

All auditors are provided copies of the Business Taxes Law Guide that contain, in loose-leaf form, the laws, regulations, court decisions and summaries of the conclusions reached in selected legal rulings of counsel (annotations). The Business Taxes Law Guide is also available on CD ROM and at www.boe.ca.gov.

The hardcopy volumes are the property of the Board and the person to whom they are issued is responsible for their safekeeping.

TERMINOLOGY**0101.50**

The term “taxpayer” includes “seller” or “retailer” as defined in the Sales and Use Tax Law, as well as the person upon whom use tax is imposed.

In those cases where it is necessary to distinguish between the laws, the following designations will be used:

S — Sales and Use Tax Law

TU — Transaction and Use Tax Law

LT — Local Sales and Use Tax Law

In addition, see Exhibit 1 “Tax Code Table” for a listing of common sales and use tax program codes used to assign tax code account number prefixes. A complete listing of account characteristic codes can be found in CPPM Section 325.030.

EMPLOYEE NOT TO SIGN TAXPAYERS DOCUMENTS**0101.55**

Employees will not sign stipulations, agreements, or other documents offered by taxpayers or their representatives. Board printed forms or facsimiles thereof will be used.

ACCEPTANCE OF PAYMENTS BY AUDITORS**0101.57**

Auditors must **not** accept payments in the office or field. If a taxpayer in the office wishes to make a payment, he or she must be taken to the office cashier for processing of the funds. In instances where a taxpayer in the field insists on making an immediate payment of an *audit liability just established*, the auditor may call the field office and request that a tax representative contact the taxpayer and arrange for payment of the liability. *To the extent reasonable*, the tax representative may receipt the payment at the taxpayer's place of business. If this is impractical, the taxpayer should be given an envelope (not postage paid) bearing the local Board office address. Under no circumstances should a tax representative pick up returns or prepayment forms "as a service to the taxpayer" as it is the taxpayer's responsibility to file and pay in the prescribed manner.

TAXPAYERS' BILL OF RIGHTS**0101.60**

The Harris-Katz California Taxpayers' Bill of Rights, enacted on January 1, 1989, added Sections 7080 through 7099 and Section 7156 to the Sales and Use Tax Law. Effective January 1, 1999 Sections 6593.5, 6832, 6964 and 7094.1 were added. The law guarantees that the rights, privacy, and property of taxpayers are protected during the course of assessment and collection activity. Tax auditors should be familiar with the provisions of the law. Publication 70, which explains procedures, remedies, rights, and obligations of taxpayers and the Board, must be provided to taxpayers at the beginning of every audit.

CONFIDENTIAL INFORMATION**0101.65**

The Civil Code and most of the business tax laws contain provisions making it illegal to divulge to any unauthorized persons information regarding a taxpayer's affairs obtained through audit investigation or from returns or reports. (This includes information contained in Forms BOE-1164 and BOE-1032; see section 0401.20). Information of this nature contained in Board records must be treated in strict confidence. The only exception is when the Governor, by general or special order, authorizes other state officers, tax officers of another state, the Federal Government (if a reciprocal agreement exists), or any other person to examine the records maintained by the Board. Requests for information of a confidential nature should be referred to a supervisor.

Under the Sales and Use Tax program, all but the following information is confidential: account number, business name, names of general partners, business and mailing addresses, business code, ownership designation, start and close-out dates, status of permit (i.e., active/inactive), and tax area code. However, disclosure of the name and address of an individual may be prohibited by Civil Code section 1798.69. (Civil Code section 1798.69 provides in part that the Board may not release the names and addresses of taxpayers except to the extent necessary to verify resale certificates or administer the tax and fee provisions of the Revenue and Taxation Code.) You should be aware that nonconfidential information in other business tax and fee programs differs from that in the Sales and Use Tax program.

Requests by a taxpayer's representative for information and records under the Information Practices Act and the California Public Records Act will be guided by the following policy:

- A taxpayer's representative may examine and/or receive copies of the same information the taxpayer is entitled to, provided the representative presents a written authorization from the taxpayer. This includes copies of all correspondence and, if involved with an audit, petition for redetermination or claim for refund, a copy of the report findings. It is not necessary that the written authorization be notarized.

Exceptions to the written authorization rule:

1. Taxpayer directed — Written authorization is not required when supplying copies of audit working papers to the taxpayer's bookkeeper or accountant when the taxpayer directed the Board to contact his/her bookkeeper or accountant to conduct an audit and the audit was made based on information supplied by the bookkeeper or accountant.
2. Oral inquiries - Attorneys and CPAs may examine and/or receive copies of information without having written authorization if the person is known by the Board to represent the taxpayer. Most oral requests are for an informal review of working papers before the audit is transmitted to Headquarters - generally when the representative has been working with district staff. Staff should screen for situations that may involve speculative inquiries by persons who may be aware of the general subject matter and a taxpayer's business name or account number, but have not been asked by the taxpayer to represent them. Staff should check the taxpayer's file and the appropriate IRIS screens to verify the person has represented the taxpayer in the past. (APL MH and TAR AI have fields for the name of the taxpayer's accountant or representative; audit subsystem screens can be used to access the audit report or prior audit report to view comments indicating who maintained the records and who was involved in the discussion of audit findings.)

Preferably, a stream of correspondence exists for the current audit which clearly establishes the attorney's or CPA's relationship with the taxpayer. If the only information available on IRIS involves a prior audit, or the representative has recently been added, the file should be carefully reviewed to determine what event created the authorization. If staff is still unsure as to whether the attorney or CPA is in fact a representative of the taxpayer, staff may contact the taxpayer by telephone to confirm the authorization. Alternatively, staff should ask the person to put the request in writing and state specifically that he or she represents the taxpayer in question. Attorneys and CPAs have an ethical responsibility not to misstate their authority to represent their clients.

Requests for copies of district, appeals, and central files must be obtained in writing.

3. Written inquiries - Attorneys and CPAs may examine and/or receive copies of information without having written authorization from the taxpayer if they request the information in writing and clearly indicate that they are authorized to represent the taxpayer. When copy requests are made for file information, the supervisor should review the appropriate IRIS screen printout indicating the representative's name before the request is approved and copies mailed. As explained in (2) above, staff should review IRIS and the taxpayer's file to screen for speculative inquiries. If staff still has doubts, they should contact the taxpayer to confirm authorization.

SAFEGUARDING INFORMATION OBTAINED FROM THE IRS**0101.67**

In order to comply with Internal Revenue Service (IRS) information safeguarding requirements, Form BOE-85, Inspection or Disclosure Limitations, must be attached to the audit working papers (AWPs) to flag any page that includes information obtained directly from the IRS. This includes data that is transcribed from an IRS obtained income tax return into the AWPs. For example, a sales reconciliation that includes transcribed amounts from a Schedule C or a schedule of purchases subject to use tax where the assets were found on the income tax return depreciation schedule. It is *not* necessary to attach Form BOE-85 to AWPs that include information from income tax returns obtained from someone other than the IRS, such as the taxpayer or Franchise Tax Board.

As explained in AM 0101.90, AWPs that include information obtained directly from the IRS must be destroyed in the same manner as the actual records obtained from the IRS.

TAXPAYER CORRESPONDENCE IN GENERAL**0101.70**

Correspondence to taxpayers, organizations, and the general public will be on the Board's letterhead. All such correspondence will contain the signature, typewritten name, working title and appropriate telephone number of the authorized signer. In accordance with BEAM section 7600, all incoming correspondence (including e-mail correspondence) will be responded to or acknowledged within 12 calendar days of receipt.

Taxpayer correspondence must serve as a complete source of the questions asked, the facts presented, and the answer given. The facts and the taxpayer's question(s) should be restated or briefly summarized. Any additional facts obtained from the taxpayer after receipt of the original letter should be included in the response and should be identified as to the source. Appropriate modification or recision letters should be sent to the taxpayer when it is determined that the tax advice as applied to the facts given by the Board was incomplete or incorrect. District Administrators and Headquarters' Supervisors will review all letters involving tax questions written by their staff to ensure that the information is correct and in the proper format.

Taxpayers who verbally request tax information are to be advised that, although an answer to their question is being provided, they may also wish to put their question in writing so that they may receive a written response for their records.

The Board is empowered to relieve taxpayers of tax, interest, and penalty where the Board finds that the failure to make a timely return or prepayment was due to the taxpayer's reasonable reliance on written advice from the Board. See Regulation 1705 for further information. The following constitutes written advice by the Board:

- **ADVICE PROVIDED IN A WRITTEN COMMUNICATION.** Written advice by the Board to a taxpayer in response to a taxpayer's specific written inquiry or from his or her representative seeking relief from liability will constitute written advice that can be relied on for section 6596. To be considered a specific written inquiry, representatives must identify the specific taxpayer for whom the advice is requested. Such an inquiry must also fully describe the specific facts and circumstances of the activity or transactions for which the advice was requested.

In responding to accountants, attorneys, or other taxpayer representatives where the name of the taxpayer is not divulged, the writer will ask that the representative divulge the name and permit number of the taxpayer to enable the Board to maintain appropriate records with respect to the information provided. The taxpayer's name and permit number will be referenced in the Board's response.

Tax advice to trade associations, taxpayer representatives failing to identify their clients, and/or taxpayers whose questions are vague or general in nature must include the following statement:

The answer given is intended to provide general information regarding the application of the tax and will not serve as a basis for relief of liability under section 6596.

If individual taxpayers are identified, but background information is incomplete, the taxpayer should be encouraged to write again setting forth the specific facts. Staff is encouraged **not** to make presumptions. However, should it become necessary to do so, they should be clearly identified as such in the letter.

Written advice may only be relied upon by the taxpayer to which it was originally issued or a legal or statutory successor to that taxpayer. Written advice that may serve for relief under section 6596 must include the following statement:

The opinion expressed in this letter may only be relied upon for relief under section 6596 of the Sales and Use Tax Law by (state taxpayer's name). If you provide this letter to your customers or vendors, those customers or vendors must write to the Board and obtain their own written opinion in order for them to qualify for relief under section 6596. Any person seeking relief under this section will be required to furnish a copy of their own original written inquiry to the Board along with a copy of the written response they received from the Board.

- **WRITTEN ADVICE PROVIDED IN A PRIOR AUDIT.** Presentation of a taxpayer's books and records to an auditor for examination is considered a written request for the audit report. If a prior audit report of the person requesting relief contains written evidence that demonstrates the issue in question was examined, either in a sample or census (actual) review, such evidence will be considered "written advice from the Board." The facts and conditions in the current situation at hand must be the same as those during the prior audit. Audit comments, schedules, and other writings prepared by the Board that become part of the audit work papers which reflect that the activity or transaction in question was properly reported and no amount was due are sufficient for a finding of relief from liability, unless it can be shown that the person seeking relief knew such advice was erroneous.

SECTION 6596 GUIDELINES FOR TAXPAYER CORRESPONDENCE**(CONT.) 0101.75**

Written advice from the Board that was received during a prior audit of a taxpayer under the above conditions may be relied upon by the taxpayer audited or by a legal or statutory successor to that person.

However, the cursory review of records performed when an audit is waived does not meet the provisions of section 6596. Unlike a no change audit recommendation, a waiver does not represent acceptance of the taxpayer's returns. Similarly, the BOE-79-F, Audit Transmittal Letter - Courtesy Letter to Taxpayer When Account is Field Waived, informing taxpayers that their account is being waived for audit will not qualify as written advice to relieve the taxpayer from tax, penalty, and interest under section 6596.

A record of the number of letters received and responded to will be maintained by District Administrators and Headquarters' Supervisors. A monthly report along with copies of all letters confirming transactions of an exempt nature, modification/recision letters, and the taxpayer's original inquiry letter will be forwarded to the Audit and Information Section for final review of the letters' accuracy. Any correspondence requiring adjustment will be returned to the originating party. Correspondence not providing exemption advice, which would otherwise entitle a taxpayer to relief under section 6596, should *not* be forwarded to the Audit and Information Section.

When an opinion has been issued, and it is subsequently determined that the tax advice as applied to the facts given was incomplete or incorrect, appropriate modification or recision letters should be sent to the taxpayer. Written advice may also be invalidated by a change in statute or constitutional law, a change in the Sales and Use Tax Regulations, or a final decision of a court, rendering the Board's earlier written advice invalid.

REWARD PROGRAM**0101.80**

Section 7060 of the Sales and Use Tax Law authorizes rewards for information leading to the collection of unreported or underreported sales and use taxes. This program, however, has not been funded.

Individuals occasionally indicate that they have information that would enable the Board to recover sales tax revenues. Auditors should advise these individuals that there is currently no state funding that would enable us to provide a reward. However, auditors may attempt to obtain such information by appealing to the person's sense of duty as a good citizen. The auditor should advise anyone providing information that they can request that their identity not be divulged.

The person providing the information should also be made aware that confidentiality laws prevent the Board from divulging to them the results of any subsequent investigation.

INFORMANT CONTACT PROCEDURES

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Under the Information Practice Act (Civil Code a 1798 et seq.), all information provided by an informant, as well as the informant's name, may be withheld during the investigation of criminal or non-criminal matters if disclosure of the information would compromise the investigation or a related investigation. **Once the investigation has been completed,** information relating to the identity of the informant may continue to be withheld provided the informant was promised confidentiality. A promise of confidentiality shall be documented in writing. For purposes of this paragraph, the investigation will be considered complete when a determination is issued, regardless of the fact that the taxpayer subsequently petitions for a redetermination. If the informant was not promised confidentiality, then the informant's identity must be divulged upon request by the taxpayer about which the information pertains. While the Information Practices Act is only applicable to individual taxpayers, as a policy matter, the Board has extended the protection of the Act to all taxpayers.

Whether or not confidentiality is promised, the **information** provided by the informant must be divulged if a request is made by the taxpayer, but only after the investigation is completed. Additionally, staff may provide either an exact copy of the information provided by the informant, with the informant's identity deleted if confidentiality has been promised **or** a comprehensive summary of the substance of the information. If the informant's identity can be readily determined from an exact copy of the information, then it would be preferable to provide a comprehensive summary. If a comprehensive summary is provided, staff should pay particular attention to providing all personal information that could affect the taxpayer's reputation, rights, benefits, or privileges.

Even though an informant is promised confidentiality under the Information Practices Act, occasionally other statutes and case law may require disclosure of the informant's name. For example, circumstances involving discovery proceedings related to pending litigation or a defendant's right to confront his/her accuser when criminal charges have been filed may require disclosure of the informant's name. Such matters shall be referred to the Board's legal staff for decision and response.

The following guidelines should be followed to ensure that the informants are aware of their rights:

- **INITIAL CONTACT.** Generally, staff should not encourage informants to request confidentiality. If an informant contacts the Board by phone or in person and asks to remain confidential, that request and the promise of confidentiality should be documented in writing. The informant should be advised that under certain circumstances, such as a court proceeding, the Board may be unable to maintain the informant's confidentiality.

Where the informant contacts the Board in writing, confidentiality should be maintained if so requested.

The Board may accept information that is provided anonymously.

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- **DOCUMENTS.** In those cases where the informant provides his/her name, any documents containing the informant's allegations should clearly state whether or not his/her name was provided with the promise of confidentiality. If the information was provided with the promise of confidentiality, then to ensure against the improper release of the informant's identity it is imperative that staff clearly print in **red** **"INFORMANT — CONFIDENTIAL"** on the top of such documents. In addition, when the document is prepared by staff, the informant's name as well as other information which should not be released to protect the identity of the informant (i.e., telephone number, address, etc.) should be placed in one central location and circled in red. He or she should thereafter be referred to in the document as "the informant."
- **INVESTIGATION.** During an investigation, if a taxpayer or his/her authorized representative requests file material, then we must provide him/her with a copy of all items in the file, with the exception of confidential information such as an informant's name or the information received from the informant. However, in doing so, we must inform the taxpayer that such information exists and is being withheld until completion of the investigation as required by the Information Practices Act. Staff should not provide details of the information provided by the informant during the investigation.
- **FOLLOWING THE INVESTIGATION.** Once the investigation is complete, we will withhold the identity of the informant if there was a promise of confidentiality; otherwise, we must disclose his/her identity. Regardless of whether or not confidentiality was promised the informant, the taxpayer is entitled to either an exact copy of the information with only such deletions as are necessary to protect the informant's promised confidentiality or a comprehensive summary of the substance of the material.
- **COURT PROCEEDINGS.** When the Board's records are subpoenaed as the result of court proceedings such as a discovery order or a criminal investigation where the defendant has the right to confront his/her accuser, the matter should be referred to the Board's legal staff for a decision.

DESTRUCTION OF FILE MATERIAL**0101.90**

CPPM section 910.000 provides guidelines for the destruction of district account folder information. As explained in that section, audit staff will be responsible for determining if audit reports and audit working papers (AWPs) should be destroyed.

General Purging Guidelines

For active accounts, all audit reports and AWPs must be retained in the districts' files. Audit reports and AWPs for closed out accounts may be purged provided there is no tax liability owing from the audit, pending litigation, active liens for written-off liabilities, petition for redetermination, claim for refund, pending request for 6596 relief, or other similar matter. When audits of closed out accounts have met these purging guidelines, the audit report and AWP's should be destroyed. In the instance where there is a legal successor to the closed out account, the district should decide on a case-by-case basis whether the AWP's of the predecessor should be retained.

Information from the Internal Revenue Service (IRS)

Any page of AWPs that includes information obtained directly from the IRS (including transcribed information) must be destroyed in the same manner as the actual records obtained from the IRS. AWPs that contain IRS information should be identified with an attached Form BOE-85, Inspection or Disclosure Limitations. When the audit report and AWPs are ready for destruction, these flagged pages must be removed from the AWPs and sent to the Tax Policy Manager for destruction.

IDENTITY THEFT PROCEDURES — ABSOLVING THE INNOCENT PARTY**0101.95**

Identity theft occurs when someone appropriates the personal information of others without their knowledge with the intent to commit fraud or theft. It is a felony in California to use the personal identifying information of another person without the authorization of that person for any unlawful purpose (Penal Code section 530.5 et.seq.). Specific guidelines should be followed to absolve the innocent party of tax liabilities that occur as a result of identity theft.

Procedures

In the event an auditor uncovers a situation where an individual has assumed another's identity, the auditor should collect documentary evidence supporting the identity theft from the innocent party. Supporting documentary evidence includes police and/or court reports. The auditor should thoroughly examine the evidence and alert the audit supervisor. The audit supervisor will notify other potentially affected sections (i.e., Centralized Collections, Special Procedures) that may have additional pertinent information. The audit supervisor will also contact the Investigations Division, notifying them a potential identity theft has occurred. Copies of all pertinent documents will be forwarded to the Investigations Division, as they are responsible for contacting law enforcement.

Once the auditor and audit supervisor are satisfied the provided documents support identity theft, the case should be forwarded to a compliance supervisor. The compliance supervisor will review the case and approve a legal adjustment to the taxpayer's (innocent party) account. This legal adjustment will delete the disputed liability from the taxpayer's account. After the adjustment, copies of the file documents should be sent to the Internal Security and Audit Division.

Table of Exhibits

Tax Code Table for Sales and Use Taxes	Exhibit 1
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INTRODUCTION

TAX CODE TABLE FOR SALES AND USE TAXES

EXHIBIT 1

Taxable Activity - Sales Tax Accounts	TAT	TAT ind.	Acct. Char	Notes
Regular Sales Tax	SR			
Regular Sales Tax(gasoline retailer)	SR			See Acct char for additional gas attributes
Regular Sales Tax(multiple locations in one tax area code)	SR	X		
Regular Sales Tax(multiple locations)	SR	Y		
Regular Sales Tax with sch b	SR	S		
Regular Sales Tax with sch b(multiple locations)	SR	Z		
Sales Tax Gasoline Distributor	SG			
Sales Tax Exemption	SJ			
Certificate of Registration Use Tax	SC			If voluntary will have Acct char code of 08
Consumer Use Tax	SU			
Consumer Use Tax w/spec rtn	SU	S		
Temporary	SR		1	
Arbitrary	SR		999	

Description	Acct. Char Code
Retailer who is temporary	01
Retailer who is part-time	02
Retailer who sells fuel	03
Retailer who sells fuel and is also a fuel broker	04
Retailer who sells fuel and is also a distributor	05
Retailer who sells at swap meets and temporary locations	06
Retailer who has warehouse locations	07
Retailer is voluntary filing(SC)	08
Retailer who is vehicle lessor	09
Retailer who has a manufacturer exemption	10
Government entity that has a permanent 30 day extension	11
Regulation 1802-Sales and Purchases \$500,000 and over	12
Use tax direct pay permit government	13
Use tax direct pay permit non-government	14
Arbitrary account	999

Account Analysis	Code	New Field
Sells Fuel	G	Acct char 03
Sells Fuel and is also a fuel broker	B	Acct char 04
Sells fuel and is also a fuel distributor	D	Acct char 05
Sells at swap meets	M	Acct char 06
Files a simplified return	S	Rtn-type-code 002
Warehouse locations	W	Acct char 07